UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

WRS, INC., d/b/a WRS MOTION PICTURE LABORATORIES, a corporation, Plaintiff, vs. PLAZA ENTERTAINMENT, INC., a corporation, ERIC PARKINSON, an individual, CHARLES von BERNUTH, an individual, and JOHN HERKLOTZ, an individual, Defendants.	Civil Action No. 00-2041

ORDER OF COURT

In this diversity action, plaintiff, WRS, Inc. ("WRS"), asserts claims arising out of the failure of defendant Plaza Entertainment, Inc. ("Plaza Entertainment") to pay WRS for duplicating various film and video titles for Plaza Entertainment and the individual defendants' guaranties of Plaza Entertainment's obligations to WRS for the duplication services.

On March 9, 2006, a settlement conference among counsel and the Court was held, and, by Order dated March 10, 2006, WRS and defendant Charles von Bernuth ("von Bernuth") were directed to file motions for summary judgment on the issue of liability by March 23, 2006. WRS complied with the Court's March 10th Order by filing a motion for summary judgment as to von Bernuth on the issue of liability on March 23, 2006. However, von Bernuth failed to file a motion for summary judgment as directed.

On April 12, 2006, WRS moved for an order directing von Bernuth to show cause why default should not be entered for failure to defend based on (a) von Bernuth's failure to contribute to the costs of retaining an accountant to review WRS's records in connection with its claim for damages as agreed at the March 9th settlement conference, and (b) von Bernuth's failure to file a motion for summary judgment on the issue of liability as directed by the Court's March 10th Order. Thereafter, on April 18, 2006, the Court entered an Order directing von Bernuth to file a response to WRS's motion for an order to show cause why default should not be entered for failure to defend on or before April 25, 2006. In the event von Bernuth failed to file a response, the April 18th Order provided that he would be deemed to have consented to the motion. Von Bernuth failed to respond as directed, and, on April 28, 2006, the Court entered an Order directing the Clerk to enter default against von Bernuth pursuant to Fed.R.Civ.P. 55(a).

In light of the entry of default against von Bernuth, WRS's motion for summary judgment against von Bernuth on the issue of liability (Document No. 88) will be denied as moot.

SO ORDERED this 12th day of June, 2006

Arthur J. Schwab
United States District Judge
for
William L. Standish
United States District Judge

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